

MICHAEL FEUER, City Attorney
KATHLEEN A. KENEALY, Chief Assistant City Attorney (SBN 212289)
SCOTT MARCUS, Senior Assistant City Attorney (SBN 184980)
GABRIEL DERMER, Assistant City Attorney (SBN 229424)
FELIX LEBRON, Deputy City Attorney (SBN 232984)
A. PATRICIA URSEA, Deputy City Atty (SBN 221637)
200 N. Main Street, City Hall East, Room 675
Los Angeles, CA 90012
Telephone (213) 978-7569
Facsimile (213) 978-7011
Felix.Lebon@lacity.org
Patricia.Ursea@lacity.org

Attorneys for Defendant, CITY OF LOS ANGELES

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JANET GARCIA, GLADYS ZEPEDA,
MIRIAM ZAMORA, ALI EL-BEY, PETER
DIOCSON JR., MARQUIS ASHLEY, JAMES
HAUGABROOK, individuals, KTOWN FOR
ALL, an unincorporated association,
ASSOCIATION FOR RESPONSIBLE and
EQUITABLE PUBLIC SPENDING an
unincorporated association,

Plaintiffs,

vs.

CITY OF LOS ANGELES, a municipal entity;
DOES 1-50,

Defendant(s).

Case No.: 2:19-cv-6182-DSF-PLA
Assigned to Judge Dale S. Fischer

**DECLARATION OF GABRIEL
DERMER ISO DEFENDANT
CITY OF LOS ANGELES'
OPPOSITION TO MOTION FOR
PRELIMINARY INJUNCTION**

Concurrently Filed Documents:

- Memorandum of Points & Authorities ISO Opposition
- Declarations ISO Opposition: Dermer, Wong, Pereida, Ramirez, Rankin, Guerrero, Haines, Medina, Banks, Bernal, Rodriguez, Diaz
- Request for Judicial Notice
- Evidentiary Objections

Date: March 30, 2020
Time: 1:30 p.m.
Ctrm: 7D

DECLARATION OF GABRIEL S. DERMER

I, GABRIEL S. DERMER, hereby declare:

1. I am an attorney at law, duly licensed to practice before this court and all of the courts of the State of California. I am one of the attorneys for Defendant City of Los Angeles (“City”) in this action. I make all statements herein of my own personal knowledge, and if called to testify as a witness in this action, I could and would testify competently to the truth of the matters set forth herein.

2. This Court issued its order on the City’s motion to dismiss on February 15, 2020.

3. On the afternoon of February 18, 2020, counsel for Plaintiffs emailed a letter to myself and others requesting that the City stipulate to an injunction. The letter asked for a response by the close of business on the very next day, February 19. A true and correct copy of this letter is attached hereto as Exhibit “1.”

4. On February 19, 2020, I spoke via telephone to Shayla Myers, counsel for Plaintiffs, informing her of, among other things, that the City needed more than one day to respond to Plaintiff’s request. I informed her of an internal City Attorney meeting that was scheduled for Friday, February 21. I also informed Ms. Myers of the likely need for the City Council to approve a stipulated injunction, and how that would take some time.

5. On Friday, February 21, Ms. Myers sent me an email stating, among other things, “we intend to move for a preliminary injunction early next week.” A true and correct copy of this email is attached hereto as Exhibit “2.” I responded the same day informing Ms. Myers that the City was continuing to discuss the matter and that I would “share information as soon as I have it, and would ask for your patience in said regard.” A true and correct copy of this email is attached hereto as Exhibit “3.”

6. Five days later, on February 26, 2020, Plaintiffs filed their motion.

7. On February 27, 2020, I sent an email to Ms. Myers informing her that the City Council would be briefed on this matter the following week, on either March 3 or 4. A true and correct copy of this email is attached hereto as Exhibit “4.”

1 8. Following the City Council's consideration of the matter on March 4, Ms.
2 Myers and I have continued to have email communications but, as of yet, no agreement
3 has been reached.

4 9. As the Court may know, by January 10, 2020, the City produced thousands
5 of pages of documents to Plaintiffs in this matter (Bates Nos. CTY000001 – CTY
6 004085). Among other things, the City produced photographs, Watershed Protection
7 Reports and various other Sanitation Reports relating to Plaintiffs. Importantly, because
8 the City was unable to locate incident specific information for Plaintiff Haugabrook, the
9 City produced all reports for all cleanups conducted in South LA in March 2019.

10
11 I declare under penalty of perjury under the laws of the State of California and the
12 United States that the foregoing is true and correct and that this Declaration was executed
13 on March 9, 2020, at Los Angeles, California.

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GABRIEL S. DERMER

EXHIBIT 1



7000 S. Broadway
Los Angeles, CA 90003
213-640-3950
213-640-3988 fax
www.lafla.org

Writer's Direct Line (213) 640-3983

Our File Number 19-1306127

VIA EMAIL AND U.S. MAIL

February 18, 2020

Scott Marcus
Gabriel Dermer
Patricia Ursea
Felix Lebron
Office of the City Attorney
200 N. Main Street, 6th Floor
Los Angeles, California 90012

RE: *Garcia v. City of Los Angeles*; Case No. 2:19-cv-06182

Dear Counsel,

We have reviewed the Court's ruling on the City of Los Angeles's motion to dismiss, and in particular, the Court's denial of the City's motion to dismiss Plaintiffs' facial challenges to Los Angeles Municipal Code Sections 56.11(3)(i) and 56.11(10)(d).

The Court's ruling is clear that the Bulky Item provision is facially unconstitutional under the Fourth and Fourteenth Amendments of the United States Constitution and Article I, Sections 7 and 13 of the California Constitution. As such, the continued enforcement of the ordinance violates the rights of unhoused residents throughout the City. However, despite the clarity of the Court's ruling, today's CARE+ schedules indicate that bulky items are still subject to enforcement.

We request the City immediately cease enforcement of these provisions and stipulate to a preliminary injunction, enjoining the City from enforcing LAMC Sections 56.11(3)(i) and 56.11(10)(d). If the City is unwilling to stipulate to such an injunction, then we will seek one from the Court.

It is our hope that the parties can reach an agreement without the need for further intervention from the court. Doing so will preserve both city and judicial resources and potentially open the door to a broader conversation which Judge Fischer made clear at the February 10th hearing, should happen here. As we have indicated on numerous occasions, we remain open to working towards a meaningful resolution without protracted litigation. But of course, we will seek court intervention if necessary to protect our clients' rights.

Other Office Locations:

East Los Angeles Office, 5228 Whittier Blvd., Los Angeles, CA 90022; 213-640-3883
Long Beach Office, 601 Pacific Ave., Long Beach, CA 90802; 562-435-3501
Santa Monica Office, 1640 5th St., Suite 124, Santa Monica, CA 90401; 310-899-6200
Ron Olson Justice Center, 1550 W 8th Street, Los Angeles, CA 90017; 323-801-7989

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Letter to City of Los Angeles
Page 2 of 2

Please let us know by the close of business on Wednesday, February 19th how you wish to proceed.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Myers". The signature is fluid and cursive, with the first letter "S" being large and prominent.

Shayla R. Myers
Legal Aid Foundation of Los Angeles

Catherine Sweetser
Schonbrun Seplow Harris and Hoffman

Benjamin Herbert
Kirkland & Ellis LLP

EXHIBIT 2



Gabriel Dermer <gabriel.dermer@lacity.org>

Garcia v. City of Los Angeles, Case No. 2:19-cv-06182

Shayla R. Myers <SMyers@lafla.org>

Fri, Feb 21, 2020 at 6:14 PM

To: Gabriel Dermer <gabriel.dermer@lacity.org>

Cc: Scott Marcus <Scott.Marcus@lacity.org>, Patricia Ursea <patricia.ursea@lacity.org>, Felix Lebron <felix.lebron@lacity.org>, Benjamin Herbert <benjamin.herbert@kirkland.com>, "Onufer, Michael" <michael.onufer@kirkland.com>, Catherine Sweetser <catherine.sdshhh@gmail.com>

Gabriel,

We are following up from our letter on Tuesday regarding the ongoing enforcement of LAMC 56.11(3)(i) and 56.11(10)(d), in light of the Court's ruling on the City's motion to dismiss. When we spoke on the phone on Wednesday, you indicated that you would get back to us today following your meeting with the City Attorney.

Since we have not heard from you, we assume the City remains unwilling to work with us without further court intervention. We are disappointed, but given the significant interests at stake, we intend to move for a preliminary injunction early next week.

[Quoted text hidden]

[Quoted text hidden]

EXHIBIT 3



Gabriel Dermer <gabriel.dermer@lacity.org>

Garcia v. City of Los Angeles, Case No. 2:19-cv-06182

Gabriel Dermer <gabriel.dermer@lacity.org>

Fri, Feb 21, 2020 at 6:17 PM

To: "Shayla R. Myers" <SMyers@lafla.org>

Cc: Scott Marcus <Scott.Marcus@lacity.org>, Patricia Ursea <patricia.ursea@lacity.org>, Felix Lebron <felix.lebron@lacity.org>, Benjamin Herbert <benjamin.herbert@kirkland.com>, "Onufer, Michael" <michael.onufer@kirkland.com>, Catherine Sweetser <catherine.sdshhh@gmail.com>

Hi Shayla,

We are still discussing things internally. I don't have definitive information to share but we are continuing to discuss things next week. I will share information as soon as I have it, and would ask for your patience in said regard. Thank you and have a nice weekend.

[Quoted text hidden]

EXHIBIT 4



Gabriel Dermer <gabriel.dermer@lacity.org>

Garcia v. City of Los Angeles, Case No. 2:19-cv-06182

Gabriel Dermer <gabriel.dermer@lacity.org>

Thu, Feb 27, 2020 at 6:27 PM

To: "Shayla R. Myers" <SMyers@lafla.org>

Cc: Felix Lebron <felix.lebron@lacity.org>, Scott Marcus <Scott.Marcus@lacity.org>, Patricia Ursea <patricia.ursea@lacity.org>, Benjamin Herbert <benjamin.herbert@kirkland.com>, "Onufer, Michael" <michael.onufer@kirkland.com>, Catherine Sweetser <catherine.sdshhh@gmail.com>

Hi Shayla,

Thank you for the letter. Our Office submitted a request for closed session before City Council to discuss the issues raised by the Court's order and that should happen next Tuesday or Wednesday. While we moved as quickly as we could on these issues, unfortunately, Plaintiffs' timing on the motion for preliminary injunction did not provide sufficient time for the City to meaningfully respond to you before the filing of the motion. We will get back to you once we receive direction from Council. Thank you.

Gabriel

[Quoted text hidden]

7 attachments**LEGAL AID
FOUNDATION
OF LOS ANGELES**image001.png
20K

Justice • Equity • Hope

image002.png
1Kimage003.png
2Kimage004.png
2Kimage005.png
2Kimage006.png
1Kletter to CLA re Preliminary Injunction.pdf
84K